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In re Application of:

ROSENBERGER *et al.*
Serial No.: 10/010,506
Filed: November 13, 2001
Attorney Docket No.: 8571:88

: *SUA SPONTE*
: DECISION WITHDRAWING HOLDING OF
: ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely file a response to the non-final Office action mailed on May 23, 2003. A Notice of Abandonment was mailed on January 12, 2004.

A review of the written record indicates that a proper response to the non-final Office action was previously filed on December 29, 2003, but not matched with the application prior to the mailing of the Notice of Abandonment. The response includes an Amendment with a certification of mailing under 37 CFR § 1.8 attached, a request for a three-month extension of time and the fee. Since the response was timely filed, the abandonment of the application was premature. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Jose' G. Dees at 571-272-1569.

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